RESOLUTIONS (contd.)

10. Abolition of capital punishment (contd.)

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Sir, last evening we had rather a heated discussion about the resolution relating to the abolition of capital sentence. It was pointed out even yesterday during the course of the debate that although all along this provision relating to capital sentence has been embodied in our statute book as it has been on the British Indian statute book also for the last quarter of a century not more than one execution actually took place in Cochin. That must have struck the Members as rather a remarkable fact. Various explanations were attempted on the floor of the House yesterday to account for the fact. It was alleged that the learned Judges realising the inequity of this provision relating to capital punishment must have tried their level best to escape passing the capital sentence. That explanation I don't think is correct, in the sense in which it was put forward. If it is stated that the learned Judges refused to give capital sentence except in clear cases of deliberate murder then that explanation would be right. But if it is insinuated that the learned Judges in spite of the explicit language of the statute shirked their duty that insinuation must be repudiated vehemently.

Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).—No insinuation was made.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Well, whatever may be the explanation the fact remains that within the past quarter of a century in Cochin although there were a large number of murder cases and convictions for murder there was only one case of hanging. That at once makes out that whatever acadamic interest may be attached to this question which has been cropping up in this House as a life issue in actual everyday life this question cannot be considered to rank as one of foremost interest. But since it has been raised and I am sure it is likely to be raised again I shall try to meet the plea as far as possible. I have additional pleasure in doing so because I remember that when I was a nonofficial member of this House that identical question was raised and the view point that I took up on that point then happens to be precisely what I am going to take up today.

Mr. P. Kumaran Ezhuthassan (*Wadakkancheri*).—You have not yet changed your opinion?

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Mr. Thomas Manjuran *(Government Advocate aad Law Officer).*—I have not yet had occasion to regret the views that I expressed at that time. Fortunately on this occasion my personal opinion seems to be perfectly on all fours with the Government opinion.

Now let us consider the various arguments put forward one by one, very briefly. But before doing that let us go briefly into the history of capital punishment. It will throw up some light. It is seen from the history of this question of capital punishment from as back as the knowledge of man goes capital punishment has been very much in existence. Probably the earliest knowledge we have got relating to capital punishment is of what prevailed in the Babilonian Empire. Not only there was capital punishment for murder but capital punishment seems to have been meted out for many other offences. The Babilonian Law provided capital punishment rather indiscriminately. But when it came to the Hebrews they wanted to reduce it and they confined the award of capital punishment to adultery, be stiality, blasphemy, rape and murder, etc. Then came the Roman Law where it was still further reduced, and capital sentence used to be awarded only for treason, adultery, sodomy, murder, seduction and rape. All that may appear to be very remote to the Hon'ble Members since it is 20 centuries ago. Now let us come down to Modern England. Up to the beginning of the 19th century all members will be startled to hear that there was not less than 200 offences for which capital punishment was awarded. Now that unfortunate state of affairs was mitigated by the year 1838 when under the Common Law of England capital sentence was restricted to high treason, murder and destruction of dock-yards, etc. Now that has still been restricted and the law today is that the capital sentence is to be awarded only for cases of murder expecting of course cases of high treason. Now what about India? I am giving a historical retrospect particularly because reference was made to the civilization, ignorance, etc. Let us see what obtained in this country about the civilization of which we are very proud, whose ancient institutions, we are trying to imitate and introduce even at the cost of severe inconvenience. Now let us see what obtained in this ancient and glorious land. Under the ancient Hindu law long long before the Muhamadans invaded the country capital sentence was awarded practically for all the offences to which capital sentence was practically awarded in England, till the 19th century. The ancient Hindus seem to have been not satisfied with merely giving capital sentences.

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They indulged in watering the body, dragging it along and things like that.

Dr. A. R. Menon (*Pallippuram*).—What is the authority for this?

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Is it the case of the Hon'ble Member for Pallipuram that there was no capital sentence known to the ancient Hindu Law?

Dr. A. R. Menon (*Pallippuram*).—I don't say that.

Mr. K. Ayyappan (*Ezhuvas South*).—Ancient Hindu Law permitted Sathi and Thagi also.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—Then came the reign of the more modern Hindu Rajas and the latter Muhamadan rulers. What prevailed there?

Now all that was brought under control by the introduction of the famous Indian Penal Code under which capital sentence can be awarded only for murder and for waging war against the King. In Cochin our Penal Code does not contain the section relating to waging war. But there is the provision relating to murder. That is the only provision relating to capital sentence we have got in Cochin. Now before I bring to the notice of the Honble Members of this House the position in other countries let me make a distinction here. There is a vital distinction between the law relating to murder as it obtains in England and as it obtains in India and Cochin. Under the English law as it exists today if a man is found guilty of murder the Judge has no option but to sentence him for hanging.

Mr. P. Govinda Menon (*Adur*).—The word murder is used in a very technical sense there.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).— As technically as it is used in the Indian Penal Code. Nothing more, nothing less. But there is man-slaughter not amounting to murder. The distinction is that under the English law if the Judge finds a man guilty of murder he has to sentence him to be hanged. Whereas in India it is laid down that in cases of murder where there was sufficient cause for provocation an alternative sentence may be given. No doubt

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the Judge who gives the lesser sentence has to furnish the reason. As a matter of fact the Learned Judges can always get at reasons. But the distinction is that there this alternative sentence is provided. That alternative sentence at once takes away all the sting from theory of capital punishment. There is a distinction between a murder arising out of passion as compared with a deliberate murder, for instance, the case of a man who marries 7 times, insures the lives of all his wives, murders them one after another and collects a large amount out of the insurance policy. I refer to the famous case of the Blue Bird in England. You cannot possibly compare the case of such a man with the case of a man who commits murder in the heat of the moment. Let us take the case of a convicted man who waylaid an old woman of about 70 and cut off her neck with a Koduval. That woman had a necklace. He tried to take it. She raised a hue and cry. So he cut off her neck and eventually the poor woman did not die. It is reckless dealing with life with the object of getting that Tali. If the woman had died and if the Hon'ble Member for Pallipuram were the Judge he would have hanged him not once but twice; I happened to be the Judge and I gave him only 10 years, and that sentence was confirmed by the Chief Court. I would not have had the least hesitation to hang that man if he had killed her. These cases could not be mixed, deliberate cases of murder by committing arson or theft or dacoity. Are these cases to be dealt with leniently? Would the Hon'ble Members say that professional thugs going and killing people should be given this protection?

Mr. K. Ayyappan *(Ezhuvas South).*—They should be reformed.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—The hand of man cannot reform them. Hon'ble Members when they speak about the abolition of the capital sentence should not ignore this most important fact. I quite appreciate the anxiety of the Hon'ble Members that a man who does not deliberately kill should not be hanged. But in cases like the famous Blue Bird is it right to ask the Judges to send such fellows to the Central Jail?

It was stated yesterday that almost all the countries have gone off the hanging standard and it was asked "why don't you do it in Cochin?" We are a part of the British Empire. Unless it is abolished there I don't think it is practical politics.

Dr. A. R. Menon *(Pallippuram).*— Yesterday a question was put to you whether it is necessary to get the sanction of

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the Imperial Government to make any alteration in the law of this State. And you vehemently replied "no".

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*— I repeat it now. The question of getting the sanction is very different from passing a statute which is directly in contradiction with a statute that obtains there, which statute we have agreed to copy here. A law passed by our benign Maharaja will be quite a good law even without getting anybody's sanction.

Mr. A. V. Moothedan *(Chalakkudi).*— According to the Harbour agreement the Cochin Government have agreed that our laws shall be kept in conformity with the British Indian Law. There capital punishment is existing. Therefore can you make such a fundamental change?

Mr. Thomas Manjuran *(Government Advocate and Law Officer)).*—I say that a statute brought into force by His Highness the Maharaja could be perfectly valid without anybody's sanction.

Mr. E. Ikkanda Warriar *(Urakam).*—Can that Statute enacted by His Highness be inconsistent with the Statute in British India?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Presuming it is inconsistent it will be a good law.

Mr A. V. Moothedan *(Chalakkudi).*— Not that anybody's sanction is necessary. But according to the Harbour agreement. . . . . .

Mr. President.—If the Hon'ble Member wants to have a legal opinion on the Harbour agreement it is a different matter. The Maharaja of Cochin is Sovereign in the sense that he can pass any law in the State.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—An argument was brought forward upon the alleged fact that practically all the civilised countries have gone off the hanging standard, and why not Cochin also do so? I shall give a list of the countries which retain capital punishment—the entire British Empire comprising, I suppose of 1/5 of the habitable part of the globe, Albania, Belgium, Bolivia, Bulgaria, Chilley, Czechoslovakia, Denmark, Egypt, Finland, France. You can say if you want any more, Germany, Greece, Guatemala, Hayti,

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Hungary, Iraq, Italy, Japan, Latavia, Liberia, Lithnia, Mexico, Paraguey, Persia, Salvador, Siam, Spain, Switzerland, Yugoslavia and 40 out of the 48 States constituting United States of America. Capital punishment has been abolished except during time of war, in the following countries. Austria, Columbia, Latavia, Lamberg, the Netherlands, Panama, Portugal, Sweeden, and Norway and a few of the South American States. When taking into consideration the extent of these lands, comparative civilization and all that, one fact will be clear namely that of the total world population of nineteen hundred millions, countries with a total population of over seventeen hundred millions are now enforcing capital punishment. Countries with a total population of something less than 200 millions have gone up to that standard. The rest have not abolished the capital punishment. Included in it are some of the most civilised people of the world including the British Empire. In these circumstances trying to sway the Government by citing cases of countries which have given up capital punishments I submit cannot be very fruitful or successful. If you challenge these figures do that openly. I will prove them here and now. I have got authorities to satisfy you that these are facts. I will refer you if you want to the latest edition of the Encyclopedea Britanica, Volume 4. At page 805 you will find all these facts.

Hon'ble Members were insisting upon the fact that a punishment after all is only to provide an example or to reform. That is a wrong idea. Punishment is essentially punitive. It may reform. Reform by all means where it is possible but when it is not possible punishment will be given. That is the fundamental basis of all modern society.

Mr. P. Govinda Menon *(Adoor).*—Is it not retaliatory?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—There is absolutely no question of retaliation. Modern society says that for its very existence certain penalties should be provided and in the absence of those penalties there will be chaos.

Dr. A. R. Menon *(Pallippuram).*—Are you going to cite the Bible in justification of your point?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I am going beyond the Bible. I say it is a case of the Society saying that for the protection of that society certain punishments have to be inflicted, punishment strictly regulated by conditions that are precisely laid and not opposed

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to considerations of natural justice. Why are the Hon'ble Members insisting upon abolishing hanging alone? If they are opposed to the idea of punishment why not abolish all the punishments in the Penal Code?

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Because we have a sense of proportion.

Mr. Thomas Manjuran *(Government Advocate and Law Officer.).*—The Hon'ble Member for Wadakancheri had no objection yesterday to lock up a man in a Jail for life, even on false evidence.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—I did not say that. I wanted him to be kept there for reformation.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*—He wanted that reformation although he might have gone there on false evidence.

Sir, I conclude by reading just a short passage extracted by me several years ago when I was sitting in this Council as a non-official Member. I quoted from a passage at that time from the writing of Sir Reginald Craddock. This is what he says.

"In the excitable east they sometimes proceed to run amock and kill everybody in sight, or they may, in a fit of remorse, proceed to give themselves up, or they may take refuge in flight. I have known a case in which the murderer went on to commit nine murders before he was himself killed. I can recall another in which the murderer proceeded to decapitate his victim, put the head in a basket, carried it several miles to the Police Station, and there deposited it as a gruesome evidence in support of his confession. These three classes of cases apart, the average man who commits murder with some degree of premeditation does so, not because he is afraid of being hanged, but because he has confidence that he will escape detection. The severity of the penalty fails as a deterrent to the criminal whenever he thinks the chances of his conviction and punishment are remote. But it is idle to deduce from his act that he does not fear death.

There are others that contend that imprisonment for life is a more terrible sentence than death and hence the abolition of capital punishment would have no effect in increasing the crime of murder.

There might be something in this argument if the imprisonment involved perpetual confinement in chains."

I may say that in Italy while there was no capital sentence there was this idea of solitary confinement, not exceeding ¼ of

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the total number of years for which the man was confined, Now the Hon'ble Members will see from what I have stated that to us the abolition of capital sentence will be taking a terrible risk. It is not a case of blood for blood or a tooth for a tooth. It is a case where the man has to forfeit his life for the life he takes. But now a man has to fear that he will forfeit his life if he commits a murder. Such a fear is a real fear. Hon'ble Members are not aware of that fear. I cannot also say that I am directly aware of that fear. But I have read of cases of the most gruesome misery of people awaiting their death.

Dr. A. R. Menon (*Pallippuram*).—That will be the very objection for this point of view.

Mr. Thomas Manjuran (*Government Advocate and Law Officer*).—That will be the very justification. Unless you can prevent by giving to these people who propose to take others' lives some sort of a terrible end of their own lives the price of life would be ending. Then what is the penalty if we abolish capital punishment? What is the alternative? 14 years in the Central Jail a portion of which could be remitted by good conduct. The summary of it is that we do not want a man to be shut up there for his whole life. But that does not mean that you should not hang a man who deserves it.

* **Dr. A. R. Menon** (*Pallippuram*).—Sir, we have listened with great pleasure to the statement made by the learned Government Advocate and I must confess that he has made out a very strong case in favour of the theory that execution shall have a deterrent effect upon man. The whole trend of discussion comes to this one point. If those who support capital punishment are in a position to convince a reasonable body of men that that punishment has a deterrent effect upon the remaining population, and that there is a likelihood for an increase in the number of crimes, then they would have made out a case. I am not here to state whether capital punishment is or is not abolished in Timbuctoo. But we have to look to the state of things in other countries where this punishment has been done away with, whether there is an increase in the number of crimes.

Sir, I have also gone to various countries and I have also studied the statistics. In the United States of America, in all the States where this capital punishment is done away with,

* Speech not corrected by the Hon'ble Member.

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it has been conclusively proved that there has been no increase. I do not say that there has been a decided decrease. There has not been an increase, I deliberately make that statement. There has not been a single State where there is an increase in the number of murders because of the suspension of this capital punishment. Now if it is with the object of vengeance like tooth for tooth, eye for eye, that is quoting scripture to prove his case, I can also quote "Vengeance is Mine, and it shall not be done by my creatures". Eye for eye, tooth for tooth, that is the fundamental basis for your argument. 9 years ago, you made one argument and you repeat that argument again this time. Sir, the decision for hanging is irrevocable. Can you come across an infallible judge? And we know that God has not created a human being who is infallible. It is the people who make the judge great and call him infallible. I know for certain that there is not an infallible judge. Then can you trust this to a body, to a Tribunal which is infallible. Then I can understand. Therefore an irrevocable judgment pronounced by a body or by a board or by an individual who is not infallible cannot be a punishment which cannot be nullified or done away with. A punishment which is based upon equity and justice on which you base your laws should not find a place in your statute book. You may ask us, was there any such case? There have been cases quoted in many countries where innocent men have been hanged. If it is possible that such mis-justice might take place in one place why should it not take place in another place. That is my point. Where is the guarantee that innocent men are not hanged. Any layman knows that a decision is arrived at on circumstantial evidence. Circumstantial evidence can be so manufactured either deliberately or un-intentionally. Only it must appear to some men that a clear case has been made out. But at the same time the party may be innocent. Is it not the experience of every judge to believe only a little of what a witness says. Sir, do we not find that the witnesses before they are examined are sworn in that 'God is my witness; I will say the truth and only truth'? Yet, the judge does not believe him in full. Now, Sir, therefore, this punishment is not a punishment at all. I can conceive of no punishment which is inhuman. The mere fact that death by hanging or by electrocution is instantaneous and the man does not suffer, we are not sure of, because none who have been hanged have come back to report of their sufferings. Do you know what he suffers during the intervening period? He is kept there like a wild animal for 3 weeks and during day-time, he thinks of his impending doom and at night he dreams of the horrors of death.

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I think this is a greater punishment for the murder committed by him.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—How can you produce the agony before sentence?

Dr. A. R. Menon *(Pallippuram)*.—That agony of mind, I think is something more than the agony of death. If you are to be killed, you should be hanged. I have no objection if he is to be hanged without his knowledge. It is the impending fate that produces this great agony. What happens before? At 7 o' clock he is given a good breakfast, and he is supposed to be given anything he asked for. His hands are tied. A procession is formed and he is taken to a distance and on the way he sees many people, men and women. Practically by the time he reaches the foot of the gallows, he is dead. And many members of the procession, who have no occupation whatsoever like the members of the legislature, all of them stand round and see this sight. Now we want a protection from the murderers. There is no doubt about that. Can you not confer that protection by any other means than by hanging?

A notorious predecessor of my profession, Dr. Diblock invented the Diblock machine which is generally known in France as the Pretty Lady. This machine is put on the platform and the prisoner is made to sit close to it. The lady enbraces the man and with the embrace the prisoner dies. And fortunately retribution for this great doctor came from this ingenious method of his own. He died on his own instrument. That is the only consolation that we have. I think I can understand why people sentenced for hanging by the Sessions court are relieved from such punishment by the Higher Court. It should not be understood that the Chief Court Judges are more clever than the Sessions Judge. It is that humanity, it is that disinclination to inflict capital punishment somehow or other, that induces them to find out some loop-hole for commutation. Therefore even the Judges find it difficult to carry out the law and wherever possible they try to commute the sentence to one of imprisonment for life. I have not the least doubt, Sir, that it reflects on the Judges, of the various Courts. If you make a reference to the Judges, whether they are in favour of this sentence, I am sure that they will not be in favour of this, because, there have been instances where a Judge has actually fainted after pronouncing the sentence of death. I am referring to Mr. Ayyakutty, the Sessions Judge, who actually fainted in Court after pronouncing the Judgment. The cause for such

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fainting might be that he knew that he was instrumental in taking the life of another human being. It is said somewhere that he who cannot create has no right to take away. I am referring to the very truth in every great book on religion. Nowhere is it advocated that another man must be killed to equalise the mischief done by him. Therefore, even from the point of view of humanity, from the point of view of deterrent effect, this punishment has failed and failed too disastrously.

I may give one example more. In France this hanging was going on for a considerable period. I am not sure, but I believe that President Delbos, when he was President of France, did not kill anybody. All cases during his period of 7 years were commuted. During those 7 years it has been found from the reports of Government that there has not been a decided increase in crime. From that we can draw an inference that even if you take away the hanging punishment, it will not give rise to increase in crimes. The French Parliament which was about to do away with this capital punishment did not do it, because unfortunately a blood thirsty set of people began to murder people in the streets of Paris and this created fear in the legislature and they declined to do away with this punishment.

Mr. Thomas Manjuran *(Government Advocate and Law Officer)*.—There are worse people in India.

Dr. A. R. Menon *(Pallippuram)*.—I shall be very pleased if you can show me the deterrent effect of this capital punishment. You said that in Russia, Italy, Germany and all those places there is this law. I understand the underlying principle of these countries. Prior to the advent of Mussolinis and Hitlers there were very few executions. It is these autocrats who introduced many of these executions again in Italy, Germany and Russia. In Russia there was no execution before the communists came. There was no execution and the communists introduced it. Executions began everywhere with the advent of these autocrats. That does not show that the civilization of the people of the countries has created in them a tendency, a propensity or inclination in favour of this punishment. There, a man comes and takes charge of the whole administration and with or without their consent, in order to keep his position secure, and in order to place power in his hands, he stresses upon such punishment. But here the case is different. When we are discussing the merits of this case, if it has been as a result of the con-joint wisdom of the legislature,

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I can understand that. But it was not so. If it has been as a result of the deliberations of the legislature or of judicial bodies of those countries that this execution was re-introduced there, then, it shall also be adopted in this country. There is no use of giving various reasons for the retention of this measure. Unless Government conclusively proves that this has a deterrent effect and that it has reduced crime and that a romoval of this section is likely to increase crime, I think we have made out a case for its abolition (Hear, Hear.).

* **Mr. C. R. Iyyunni** *(Trichur South).*—The theories that underly punishment are (1) retributive and the other reformative. The theory of retribution has come into existence from the very early times. But the theory of retribution was not prevalent during the early days when morality was at a very low ebb. As we proceeded with civilization, we proceeded similarly in morality. If you just look at the history of countries and know how mental delinquents have been treated, how lepers have been treated, we will certainly find that they are treated worse than dogs. I would go further and say that they were treated as devils themselves. As we proceed we find that the sense of morality of people has grown and as a result the treatment that had been awarded to them has become more humane. That is exactly the position in which we were. In the 19th century, in England, we find that even for small offences, the punishment that was awarded was capital punishment. Then there was a hue and cry with regard to the matter that we had to give up capital punishment. The advocates of capital punishment said that if that kind of punishment is stopped, the whole country will go into rack and ruin. The country will be, they said, flooded with thieves. But after the capital punishment was taken away, instead of crimes going up, their number really went down. The question now is what exactly is the object with which punishment is awarded to a delinquent or an offender. For one thing the other people should not try to commit such offences. There was such a detterent effect. In the second place, the person who commits the offence must suffer some pain. In the third place, the person who is suffering some pain is put in the way of gradual reformation. These things have to be seriously looked into before we fix up the kind of punishment that we are going to award for any offence that is committed by a person. Now what exactly will be the position of a man who is convicted and is sentenced with capital punishment? Let us see whether these conditions are

* Speech not corrected by the Hon'ble Member.

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satisfied. Certainly he suffers some pain. Certainly there is some deterrent effect so far as the other persons are concerned. What about reformation? Is it possible for a man to become a better man if a chance is not given to him? The persons who have read 'Les Miserables' will see that Jean Valgean the person who was brought before the Court was Valgean. There was evidence before him by responsible persons that the person that was brought into the Court was Valgean. But Valgean comes and says 'I am Velgean and not the person who is in the box'. Such false persons are sometimes convicted instead of persons who have actually committed the crime. Practically innocent persons are made to suffer. Capital punishment is too hard for such person. It is an irrecoverable punishment. There is not a chance of retrieving. From that point of view I say that these conditions are to be satisfied. There is a reformative aspect. There is a deterrent aspect and the aspect that the person who has done some mischief should suffer. If these aspects are satisfied, cartainly that will be the punishment, the proper punishment, in the case of a person who says that he has taken the life of another. It is a different case where a person unknowingly comes and touches an electric wire with considerable power. The man dies. But here, it is a man meting out punishment to another man. There is a chance that he might improve. Why should you not grant him that advantage? If it is possible for him to become a better and useful citizen some time after, why should not we allow that opportunity to him? In some case 14 years' imprisonment is given. It is a pretty long period. And during that period, he is to undergo a lot of hardship and if, in the meantime, he is put in the right track, he will become a good citizen. So I believe that in the interests of humanity, it is necessary that capital punishment should be removed from the Statute of the State.

Mr. V. K. Krishnankutty *(Anthikad)*.—Mr. President, Sir, before winding up the discussion, allow me to thank the Hon'ble Law Member who has so ably supplemented the arguments advanced by the non-officials in support of the resolution. When he was gradually tracing the history of the development of penology, he stated that in the old barbarous days the majority of offences were punished with capital sentence and gradually when refined views increased, the number of offences that were meted with capital punishment also gradually decreased. There was gradual agitation against awarding of capital punishment for ever so many offences and he even quoted the example of modern England where there was an

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agitation for abolition of the capital sentence, and the development of that agitation. I shall also supplement his argument.

In England the agitation for abolition of capital punishment commenced in 1819. It was due to the severity of the Criminal Law obtaining there at that time. The number of offences for which capital punishment could be awarded at that time was over 200. By 1861, the number of offences punishable with capital punishment have been reduced to a considerable extent, viz., to four. So my humble submission is, even arguing from the position of the Government Advocate, that as humanity developed, capital punishment is attempted to be done away with. Now, Sir, the theory that a punishment is a punishment for its own sake is an exploded one. The most important purpose for which the penal law exists is to avoid offences being committed. That is by holding out a fear and thus deterring persons from committing offences. The only question now, therefore, reduces itself to this. Whether the existence of this provision in the statute deters persons effectively from committing the offence? Let us see whether in countries where this capital punishment is abolished, there is an increase the number of murders. I have already quoted the state of affairs in 23 countries where the offences for capital sentence have been reduced to life imprisonment. What is the effect? The effect has been well-thrashed out in the discussion, in the evidence before the Committee in the House of Commons in 1929. The evidence given by the representatives of the Governments where capital sentence has been abolished is very relevant for this purpose. I shall briefly quote one or two passages from the report of the Select Committee of the House of Commons.

The Belgian minister of justice stated before that Committee "The average capital sentence has never been higher than it was when the instrument for capital punishment was introduced. The best means of inculcating respect for life is to refrain from taking life in the name of law."

Then again, the Director-General of Prisons in Denmark said "I regard capital punishment as a barbarous punishment. The number of murders has decreased in Denmark since the abolition of capital punishment."

Then the Norwegian Government Representative says "Experience gained has strengthened the view that the abolition of capital punishment has not caused any amount of increase in the number of murders" and so the report goes on. Eventually the Select Committee of the House of Commons reported as follows:— "Our prolonged examination of the situation in foreign countries has increasingly confirmed us in the belief that capital punishment may be abolished in this country

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without endangering life and property or impairing the security of society." As I stated before an examination of penology shows that in the case of the above countries where the capital sentence is abolished it has not resulted in an increase in the number of crimes. Therefore my humble submission is that a strong case has been made out for the abolition of capital punishment. My friend, the Hon'ble Member for Law, has been quoting his own speech on the floor of this House on a former occasion. When we see the purpose for which he spoke on the occasion the whole gravity dwindles down. When the discussion was going on, the Hon'ble the Deputy President, the late Mr. A. G. Menon, said that the time is only five minutes. Then the Hon'ble Member for Trippunithura, the present law member, at once came to his rescue and said "I shall fill up the time." That is what he said. And that was the primary object with which he spoke. I am surprised at the attitude that he takes in such an important matter like this.

Mr. Thomas Manjuran *(Government Advocate and Law Officer.)*—Will you please read that passage?

Mr. V. K. Krishnankutty *(Anthikad).*—The passage is at page 211, Volume III. Are you satisfied?

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I began at that time because I thought we need not waste those 5 minutes.

Mr. V. K. Krishnankutty *(Anthikad).*—I press the motion to a division.

Motion was put, votes on either side being 19.

Mr. President.—Since the votes on either side are the same, I have to exercise my vote and I am giving my vote in favour of the status quo. Hence the motion is lost.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—A poll, Sir.

Mr. President.—The poll will be taken in the afternoon.

The House rose for lunch at 1—5 p. m. and re-assembled at 2-30 p. m. with M. R. Ry., K. Ayyappan Avl., B. A. (Panel Chairman) in the Chair.

Chairman.—Do the Hon'ble Members demand a poll?

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Dr. A. R. Menon *(Pallippuram).*—We do not want.

Chairman.—It is for the Hon'ble Member who demanded the poll to say whether he should have it or not.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—It is impossible, Sir, now to take the poll. If it is possible then I demand it again.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—Several members who have voted for or against are now absent. This fact may be noted.

Dr. A. R. Menon *(Pallippuram).*—Sir, I want to submit that this is a novel procedure. In the voting there will be a great discrepancy.

Chairman.—From the proceedings it will be seen that the poll was taken after lunch.

POLL.

Ayes.	Noes.
Messrs. Shabdai S. Koder	Messrs. M. Sivarama Menon
,, T. C. Iyyukutty	,, George Parakkal.
,, T. K. Nayar	,, M. A. Sankunni.
,, A. Eachara Menon	,, K. P. Kannan Nayar
,, V. K. Krishnankutty	,, K. Achyuta Menon
,, K. M. Kunhimoideen	,, P. J. George
,, K. Ashtamoorthi Nambudiripad	,, Thomas Manjuran
,, P. Govinda Menon.	,, I. N. Menon
,, K. M. Ibrahim.	,, A. L. Devassy
,, K. S. Panickar.	Dr. D. Raghavendra Rao
,, T. A. Ramachandra Ayyar.	,, A. R. Puduval
,, P. Kumaran Ezhuthassan	Mr. K. Narayana Menon.
,, C. R. Iyyunni	,,K. Krishna Warriar
,, E. Ikkanda Warriar	,, K. M. Subramania Iyer
,, V. K. Kutty.	,, T. Narayana Menon
,, K. S. Manickam	,, V. K. Aravindhaksha Menon
Dr. A. R. Menon	Rama Varmha Tampuran
Mr. A. Narayana Menon	
,, P. J. Alexander	
,, K. Kunjirama Menon.	
,, Mr. V. S. Krishnan Vaidyan.	

Resolution was therefore carried.

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Mr. K. P. Kannan Nayar *(Secretary to Government).*—It may be noted, Sir, that the poll was taken one hour after the voting.

Dr. A. R. Menon (*Pallippuram*).—Sir, you may be pleased to note that the President said that the motion is lost. Now it is said that the motion is carried.

Chairman.—When it was announced by the President that a poll will be taken it is understood that the result of voting was cancelled.

11. Redemption of a Promise to relieve the Agriculturists.

* **Mr. K. M. Ibrahim** *(Cranganur).*—Mr. President, Sir, the Resolution which I pray the indulgence of the Hon'ble Members of this House to carry is this:—"*This Council recommends to the Government to redeem their promise, now 4 years overdue, contained in the Proceedings of the Diwan, Order R-4—470/1109, dated 28th November 1933, namely, "Secondly —A Bill will be introduced in the next session of the Legislative Council to limit the rate of interest, particularly on secured loans. Such a measure in fully justified by the very large fall which has occurred in prices, one of the effects of which has been a great increase in the amount of debts, reckoned in terms of commodities and as a result in the amount of interest, payable on them.*"

Here, Sir, there is no question of making a formal speech, because the resolution only wants the Government to conform to a promise of theirs and as such this is only an honest demonstration of responsive cooperation and therefore it does not require any vituperation or formal speech. If I were given an inkling that the Government are going to accept this resolution it will only strengthen their hands to carry out their promise. Therefore I do not think I should waste the valuable time of this House by making a formal speech on this.

Chairman.—The resolution has to be seconded first. Then only the Government can say anything.

* മിസ്റ്റർ കെ. എം. ഇബ്രാഹിം (*Cranganur*).— സർ, എന്റെ ഈ പ്രമേയത്തിൽ ബഹുമാനപ്പെട്ട കൊച്ചി ഗവൺമെന്റു കൊച്ചി രാജ്യത്തിലെ പ്രജകളുടെ ക്ഷേമത്തിനു നിദാനമായി ചെയ്തിരിക്കുന്ന ഒരു പ്രൊസീഡിംഗ് സിനെ നടപ്പിൽ വരുത്തണമെന്നു അപേക്ഷിക്കുക

* Speeches not corrected by the Hon'ble Members.

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